

HOUSE BILL NO. 2011

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Roem)

A BILL to amend the Code of Virginia by adding a section numbered 57-27.1:1, relating to family cemeteries; interment rights; proof of kinship.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 57-27.1:1 as follows:****§ 57-27.1:1. Family cemeteries located on private property; interment rights of immediate family members and descendants.****A. For purposes of this section:**

"Family cemetery" means a private burying ground or cemetery, not operated for profit, that contains a collection of graves of people who descend from the same immediate family and that is exempt from taxation pursuant to Article X, Section 6 (a) (3) of the Constitution of Virginia.

"Immediate family member or descendant" means a spouse, child, parent, sibling, grandchild, grandparent, and parent-in-law of a deceased person buried in a family cemetery.

"Interment" means the same as that term is defined in § 54.1-2310.

B. Any immediate family member or descendant of a deceased person who died prior to July 1, 2023, and is buried in a family cemetery located on private property owned by someone other than such immediate family member or descendant may petition the circuit court of the county or city wherein the property is located for interment rights upon such property. Those seeking interment rights shall be considered within the existing perimeter of a family cemetery.

C. Upon satisfactory showing of proof of kinship, the court shall award the immediate family member or descendant interment rights upon such property. Such immediate family member or descendant shall, in addition to the rights provided for in § 57-27.1, have interment rights concerning himself and

other immediate family members and descendants. The immediate family member or descendant may prove kinship to a deceased person buried in the family cemetery by proffering official documentation or evidence of kinship or nonofficial documentation, such as obituaries, family Bibles or other documents with family signatures, journals or letters of the deceased family person, family photographs, or other official or nonofficial documentation deemed by the court to be reliable.

D. An owner of private property containing a family cemetery or grave shall comply with all court orders allowing for the ingress and egress of such immediate family member or descendant for interment purposes but may designate reasonable limitations with regard to access and usage of the property for the interment of any deceased person.

E. The provisions of this section shall not apply to any cemetery, mausoleum, columbarium, or similar interment facility located on the property of any church or religious association, denomination, or body. For purposes of this subsection, the property of any church or religious association, denomination, or body leased by (i) an incorporated church or religious body or corporation, as described in § 57-16.1; (ii) a duly designated ecclesiastical officer; or (iii) a trustee of an unincorporated church or religious body shall be deemed to be owned by such church or religious association, denomination, or body.

F. The court may order the petitioner to pay the reasonable costs and fees of the private property owner incurred pursuant to an action under this section.

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